

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
CONTEMPT PETITION NO.363 OF 2004

M/s MX Electronics		Petitioner
Vs.		
Union of India & Anr.		Respondents

Sarvasri A.V. Anturkar with V.M. Advani
and A.M. Sachwani for the Petitioner.

Ms Sonali Humane for Shri S.S. Pande for
the Respondents.

CORAM: R.M.S. KHANDEPARKAR, J.

DATED: DECEMBER 10, 2004

P.C.:

1. Heard. The contention of the petitioner is that in spite of the order by the Customs, Excise & Service Tax Appellate Tribunal passed on 1-6-2004, the respondents have refused to release the goods on the ground that the respondents were intending to file appeal to the Supreme Court. It has also been the case of the petitioner that the writ petition filed by the petitioner was disposed of without granting any relief on the statement on behalf of the respondents that the respondents intend to carry the matter in appeal to the Apex Court. Till the date of the filing of the present petition, the respondents had not filed the appeal, nor they released the goods. It is the case of the petitioner that the petitioner is ready to pay the duty,

as ordered by CESTAT. On the other hand, it is the case of the respondents that they have already filed the appeal in this Court but it is yet to be listed for admission. Undisputedly, the appeal filed by the respondents before this Court has not yet been admitted as well as there is no stay to the order passed by CESTAT. Considering the same, the petitioner is entitled to get the goods released and the respondents are not entitled to withhold the said goods contrary to the order of CESTAT.

2. It is also to be noted that the matter relates to revenue to the Government. In terms of the calculations relating to the dues, according to the respondents, which are disclosed in the matter, the total duty payable would be Rs.5,11,488/- and considering the penalty which can be imposed thereupon, the total amount due would be around Rs.10,61,000/- whereas the duty payable in terms of the order passed by CESTAT is around Rs.50,000/-. The learned Advocate for the petitioner, on taking instructions, has fairly submitted that the petitioner is ready and willing to execute the necessary statutory bond in relation to the amount claimed by the respondents as well as to furnish unencumbered immovable property as security for the payment of the said amount in case the respondents finally succeed in the appeal, stated to have been filed by the respondents against the

order passed by CESTAT.

3. In the circumstances, I do not find any justification for the respondents to withhold the goods without being released. The respondents are, therefore, directed to release the goods forthwith on payment of the duty as specified by CESTAT and on further execution of the bond by the petitioner and furnishing of unencumbered immovable property as security to the satisfaction of the Registrar (Judl.) of this Court.

4. In view of the fact that the respondents have already filed the appeal, however, I do not consider it appropriate to proceed against the respondents for contempt of Court at this stage. Hence with the above directions, the petition is disposed of.

5. All concerned to act on the ordinary copy of this order duly authenticated by the Personal Secretary of this Court.
